Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of	)	
	)	IB Docket No. 97-142
Rules and Policies on Foreign Participation	)	
in the U.S. Telecommunications Market	)	

REPLY COMMENTS OF SBC COMMUNICATIONS INC.

SBC Communications Inc., for itself and on behalf of its subsidiaries Southwestern Bell Communications Services, Inc., Pacific Bell Communications, Southwestern Bell Mobile Systems, Inc., and Southwestern Bell Wireless, Inc. (collectively, "SBC") herein submits reply comments in the above-captioned proceeding. SBC's reply is limited to the issue of structural separation between a foreign carrier and its U.S. affiliate. SBC urges the Commission to refrain from adopting a structural separation requirement now and, instead, to require only that the U.S. carrier maintain separate accounts for facilities and services acquired from their foreign carrier affiliates.

The Commission sought comment on whether to require structural separation in a manner similar to the models for the in-Region or in-service-area provision of interLATA services by Bell Operating Companies ("BOCs") or by non-BOC Local Exchange Carriers ("LECS").[1] Alternatively, the Commission sought comment on whether to require the U.S. affiliate "to maintain separate accounts, in particular, for facilities and

[1] Footnote 107, page 47, of the NPRM contains lists of the separation requirements for BOC and non-BOC LEC origination of in-Region interLATA services.

services acquired from its foreign carrier affiliate."[2] AT&T, in its comments, suggested that "the affiliate should be required to operate as a distinct entity with separate officers, directors and employees, to maintain separate accounting systems and records identifying all payments and transfers from the foreign carrier and to receive no subsidy from the foreign carrier or any investment or payment not recorded as an investment in debt or equity."[3]

Detailed separation requirements, such as those suggested by AT&T, are unnecessary and unwarranted at this time. There are no facts which would support conclusions about the patterns of conduct between U.S. carriers and their foreign affiliates. The Commission should not jump to the conclusion that the benefits to the public of new and potentially innovative arrangements between U.S. carriers and their foreign affiliates will necessarily be outweighed by risks to competition from failing to impose detailed separation requirements.

The Commission need not and should not ignore potential risks to competition. Indeed, it has adopted and suggested a number of other safeguards to protect competition. In addition, it retains ample authority to take action if that seems appropriate at some point in the future. For example, the Commission's complaint procedure is one method available to address concerns about competition. In fact, AT&T has specifically requested expedited complaint procedures for this very purpose.[4] If patterns of conduct between U.S. carriers and their foreign affiliates in the future suggest a need for structural separation to protect competition, the Commission could adopt rules at that time. Rules

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[2] NPRM, para. 112.
[3] AT&T's Comments, p. 51.

based on some experience could be targeted at specific conduct; any rules adopted now would necessarily be prophylactic and unfocused.

The Commission should not overlook the potential for benefits to U.S. consumers which may flow from permitting some level of integration between a U.S. carrier and its foreign affiliate. There may be occasions for which some level of integration may permit the economic provision of a service, which service could not be provided economically under a structural separation requirement.

Because this is a developing area, it is difficult to predict what services might benefit from some level of integration. The Commission should keep in mind, though, its experience with enhanced services. Those services were mostly just imagined at the time of an original prohibition on their provision by the former Bell System carriers. The prohibition was later followed by a structural separation requirement. Both resulted in the slower development of enhanced services than would otherwise have been the case and in a consequent reduction in consumer value.

The Commission can and should choose not to implement structural separation regulation now. It should instead choose to rely on its ability to address any concerns about competition through its complaint process, or through rules adopted in a later proceedings if they are warranted at that time. That approach would be consonant with more recent Commission policy of reducing or eliminating requirements for structural separation, as it has for enhanced services and is contemplating doing for cellular mobile

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[4] Id., at p. 52.

radio services.[5] The adoption, now, of rules requiring structural separation would be a reversal of the more enlightened trends reflected in other Commission decisions which involved sophisticated analyses of competitive risks and consumer benefits. It could potentially reduce consumer benefits without any demonstration of a need for such rules.

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Respectfully submitted,
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[5] A notable exception to this trend is the separation requirement imposed on BOCs pursuant to the Telecommunications Act of 1996 for the origination of in-Region interLATA service, and a less stringent separation requirement imposed by the Commission on the non-BOC LECs. Even under the Telecommunications Act, however, there is a sunset of the separation requirement. Section 272(f)(1) of the Act provides for the expiration of the separation requirement after three years from the date of authorization to provide service, unless the Commission extends the 3-year period.